IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929

Bail Appl..No. 7094 of 2007()

---

CRIME 365 OF 2007 OF ETTUMANOOR POLICE STATION

: PETITIONERS/ACCUSED 1 & 2:

---

1. JOY RODRIGUES, AGED 42 YEARS,
   S/O. VICTOR, ACARIA ARCADE, AYYAPPANKAVU,
   ERNAKULAM.

2. JAMES JOSEPH, AGED 31 YEARS,
   S/O. P.C. JOSEPH, JUDE VILLA, PERUNNA,
   CHANGANACHERRY.

BY ADV. SRI.GEORGE SEBASTIAN

RESPONDENTS: COMPLAINANT:

---

SUB INSPECTOR OF POLICE,
ETTUMANOOR POLICE STATION, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 28/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R.BASANT, J**

---

**B.A.No.7094 of 2007**

---

**Dated this the 28th day of November, 2007**

**ORDER**

Application for anticipatory bail. Petitioners are accused 1 and 2. Altogether there are 2 accused persons. The crime is registered for offences punishable under Sections 120 B and 420 I.P.C. Crime was registered on the basis of a private complaint filed before the Magistrate and referred by the Magistrate to the police under Section 156(3) Cr.P.C.

2. To put it in a nut shell, the allegation is that the 1st and 2nd accused supplied ceramic tiles to the defacto complainant. They received amounts by way of cheque as also cash from the defacto complainant. The defacto complainant sold the tiles supplied to another. That other was not satisfied about the quality of the tiles. He returned the tiles to the defacto complainant. The defacto complainant then informed his bank that payment of the cheque issued to the accused must be stopped. The accused presented the cheque, got the same dishonoured and initiated proceedings under Section 138 of the Negotiable Instruments Act. It is at this juncture that the complainant went to court with the complaint alleging that the supply of inferior quality of the tiles was in pursuance of culpable design to cheat the

defacto complainant. Investigation is in progress. The petitioners apprehend imminent arrest.

3. The learned counsel for the petitioners prays, the learned Public Prosecutor does not oppose the said prayer and I am satisfied that anticipatory bail can be granted to the petitioner in the facts and circumstances referred above. In its crux the dispute is about the quality of the article supplied. The sequence of events narrated above suggests that the defacto complainant had received the tiles and had in turn sold it to another which other alone raised objections about the quality of the tiles. I am satisfied that subject to appropriate conditions which shall ensure the interests of a fair, efficient and expeditious investigation, the petitioners can be granted anticipatory bail.

4. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioners shall appear before the learned Magistrate at 11 a.m on 05.12.2007. They shall be enlarged on regular bail on their executing bonds for Rs.25,000/- (Rupees Twenty Five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m and 4 p.m on 06.12.07 and 07.12.2007 and thereafter between 10 a.m and 12 noon on all Mondays for a period of one month. Subsequently the petitioners shall make themselves available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if those directions were not issued at all;

iv) If the petitioners were arrested prior to their surrender on 05.12.2007 as directed in clause (1) above, they shall be released from custody on their executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 05.12.07.

**(R.BASANT, JUDGE)**

rtr/-